

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Efrain Suarez,

Plaintiff,

Hon. Hugh B. Scott

03CV809

v.

**DECISION
&
ORDER**

Sgt. Kremer, et al.,

Defendants.

Before the Court is the plaintiff's motion for a final decision (Docket No. 41).

Background

The plaintiff commenced this action against defendants Sgt. Kremer, Lt. Eickson, Correction Officer Christofaro and Corrections Officer Longwell alleging that the defendants violated his civil rights pursuant to 42 U.S.C. §1983. More specifically, the plaintiff alleges that Kremer sexually harassed him (Docket No. 12 at ¶ 5); and that Longwell refused to allow him to take a shower and other privileges in retaliation for Suarez' filing of a grievance (Docket No. 12 at ¶ 8). Suarez asserts three claims: (1) that the defendants breached a duty to protect him; (2) that the defendants failed to "administer adequate redress" and (3) that the defendants retaliated against him for filing grievances. (Docket No. 12 at pages 4-5).

On August 9, 2005, the Court issued an Report & Recommendation denying the

plaintiff's motion for a default judgment and other relief. That Report & Recommendation was adopted by the District Court on September 23, 2005. On August 9, 2005, the Court also issued a scheduling order which directed that dispositive motions be filed by January 27, 2006. There are presently no motions pending before the Court. Thus, the plaintiff's motion for a final decision is denied as premature.

So ordered.

s/ Hon. Hugh B. Scott
United States Magistrate Judge

Buffalo, New York
November 9, 2005